

April 2006

Update: Criminal Procedure Monograph 6—Pretrial Motions (Third Edition)

Part 2—Individual Motions

6.19 Motion to Suppress Confession for Violation of Sixth Amendment Right to Counsel

Discussion

Insert the following text after the first full paragraph near the top of page 42:

In *People v Frazier*, ___ Mich App ___, ___ (2006), a defendant’s Sixth Amendment right to counsel was violated when the defendant’s attorney “purposefully and unreasonably left his client to face the police interrogations alone.” The defendant’s subsequent waiver of his right to counsel was presumptively invalid, and statements made by the defendant during those interrogations were inadmissible against the defendant in the prosecution’s case-in-chief.

Part 2—Individual Motions

6.22 Motion to Disqualify Judge

Discussion

Insert the following text after the partial paragraph near the top of page 54:

A defendant is not denied his right to a fair and impartial trial when, after the defendant has interrupted the court proceedings on several occasions, the trial judge threatens to tape the defendant's mouth shut if the defendant continues his disruptive verbal outbursts. *People v Conley*, ___ Mich App ___, ___ (2006).

Part 2—Individual Motions

6.24 Motion to Dismiss Because of Double Jeopardy— Multiple Punishments for the Same Offense

Discussion

Insert the following text before the last paragraph in the section near the bottom of page 62:

Where the statutory language expressly states that a penalty imposed under the home invasion statute does not preclude the imposition of a penalty under other applicable law, the Legislature clearly intended to allow multiple punishments for criminal conduct occurring during the same incident from which a defendant's home invasion conviction arose. *People v Conley*, ____ Mich App ____, ____ (2006). Therefore, in *Conley*, the defendant's convictions of first-degree home invasion and felonious assault did not violate the defendant's constitutional protection against double jeopardy. *Id.*